

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT LYNCHBURG, VA
FILED *for ch'ville*
MAY 07 2007

JOHN F. CORCORAN, CLERK
BY: *Fay Coleman*
DEPUTY CLERK

DEBORAH A. DOUGLASS,

Plaintiff,

v.

GREGORY PITTSBARGER,

Defendant

CIVIL No. 3:05cv00018

ORDER and OPINION

JUDGE NORMAN K. MOON

Defendants removed this case to this Court on April 5, 2005. Plaintiff has failed to serve Pittsenbarger, the only remaining Defendant in this case, within the time constraints imposed by Rule 4 of the Federal Rules of Civil Procedure. *See* Fed. R. Civ. P. 4(m) ("If service ... is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time").

On November 7, 2006, the Court notified Plaintiff that the 120-day deadline had passed and that Plaintiff had 15 days within which to notify the Clerk of the Court that service had been accomplished or risk dismissal. Plaintiff has not complied with Rule 4(m) or with the 120-day notice. Accordingly, pursuant to Federal Rule of Civil Procedure 4(m), this case is DISMISSED WITHOUT PREJUDICE.

Because this is the only remaining Defendant, the Clerk of the Court is hereby ordered to STRIKE this case from the docket of the court.

It is so ORDERED.

The Clerk of the Court is hereby directed to send a certified copy of this Order to all
counsel of record.

ENTERED:

Samuel M. ...
United States District Judge

May 7, 2007
Date